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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIE CANO,

Defendant and Appellant.

C059372

(Super.Ct.No.
07F11860)

Defendant Marie Cano pled no contest to possession of methamphetamine and to possession of marijuana, and admitted she had served four prior prison terms. The court sentenced defendant to a term of six years, suspended the execution of sentence, and placed defendant on Proposition 36 probation. Among the conditions of probation are that she must "not . . . associate with anyone or be in the presence of anyone who is using illegal drugs" and must "stay away from all locations, which includes [her] automobile or any residence, building,

structure or area where illegal drugs are being used or possessed."

On appeal, defendant contends that the above condition of probation is constitutionally overbroad and must be rewritten to include a knowledge requirement. The People agree. We accept the concession. (See *In re Sheena K.* (2007) 40 Cal.4th 875, 890-892.)

Defendant also complains that the trial court's "MINUTE ORDER & ORDER OF PROBATION," dated June 25, 2008, states the court imposed a court security fee, jail booking fee, and jail classification fee. Defendant points out that, in orally pronouncing sentence, the court ruled: "The court security surcharge, main jail booking fee and main jail classification fees are waived." The People concede, and we agree, that the minute order and order of probation must be corrected by deleting the main jail booking and classification fees that were waived by the court. However, the People correctly note the security fee is a mandatory fee that cannot be waived by the trial court. (Pen. Code, § 1465.8, subd. (a)(1) ["To ensure and maintain adequate funding for court security, a fee of twenty dollars (\$20) shall be imposed on every conviction for a criminal offense"]; *People v. Crabtree* (2009) 169 Cal.App.4th 1293, 1327 [a court security fee "is mandated as to "every conviction," even if the sentence on a conviction was stayed"].) Therefore, although the court erred in orally waiving the court security fee, it correctly included the fee in the minute order and order of probation. (See *People v. Crabtree, supra*, 169 Cal.App.4th at p. 1328)

DISPOSITION

The challenged condition of probation is modified to state:
"Defendant is not to knowingly associate or be with anyone who is using illegal drugs, and she is to stay away from all locations, including her automobile or any residence, building, structure or area where she knows illegal drugs are being used or possessed."
The minute order and order of probation is further modified by striking the main jail booking fee and the main jail classification fee. As modified, the judgment is affirmed. The trial court is directed to amend the minute order and order of probation dated June 25, 2008, to reflect the modifications, and shall provide defendant with a copy of the amended order and conditions of probation.

SCOTLAND, P. J.

We concur:

HULL, J.

CANTIL-SAKAUYE, J.